BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

INVESTIGATION INTO AMERITECH WISCONSIN'S UNBUNDLED NETWORK ELEMENTS	))))	DOCKET NO. 6720-TI-161

THE CLECS' REPLY BRIEF ON NONRECURRING COST ISSUES

AT&T Communications of Wisconsin, L.P., WorldCom, Inc., KMC Telecom, Inc., McLeodUSA Telecommunications Services, Inc., Rhythms Links, Inc., TDS Metrocom, Inc., and Time Warner Telecom of Wisconsin, L.P. (hereinafter the "CLECs"), by their counsel, submit their reply brief on nonrecurring cost issues.[1]

Summary

A reading of Ameritech Wisconsin's discussion of nonrecurring cost issues (Init. Br. at 286-322) reveals a rather transparent attempt to ignore or skew the vast majority of the record evidence. Ameritech consistently makes unsubstantiated conclusory statements, engages in strident attacks on the CLECs' witness, and injects red herring arguments, all of which do nothing to aid this Commission resolve the important issues before it. Ameritech's tactics may be explained by the flaws in its nonrecurring cost model and the paucity of supporting "evidence." The Commission would be well-advised to compare the substance of the CLECs' and Ameritech's submissions on

[1] In this reply brief, the CLECs respond to arguments at pages 286-322 in Ameritech Wisconsin's initial brief. Given the voluminous record in this proceeding and the comprehensive coverage of these issues in the CLECs' initial brief, the CLECs have not attempted to reply to each and every argument asserted by Ameritech in its initial brief. The fact that an argument is not specifically replied to herein does not, of course, mean that the CLECs agree with Ameritech. The Commission is respectfully directed to the CLECs' initial brief for a full discussion of the CLECs' position on each issue.

nonrecurring costs. By doing so, the superiority of the CLECs' model will be readily apparent.

The CLECs' nonrecurring cost model ("NRCM"), sponsored by Steven Turner, should be adopted by the Commission to determine Ameritech's nonrecurring costs. The NRCM, which has been adopted or relied upon in proceedings around the country, is superior in all respects to Ameritech's nonrecurring cost model. The NRCM applies forward-looking, long-run economic cost principles and assumes a network engineered using forward-looking technologies and efficient processes.

Ameritech's nonrecurring cost studies suffer from multiple shortcomings, including: (1) failure to evaluate nonrecurring costs from a process perspective; (2) failure to utilize a forward-looking network architecture in developing nonrecurring costs; (3) failure to incorporate the concept of flow-through via efficient OSS into its development of nonrecurring costs; and (4) failure to incorporate efficient processes into the development of its nonrecurring costs. In sum, Ameritech's model is fundamentally flawed and cannot be relied upon with any confidence in this proceeding.

I. THE CLECS' NONRECURRING COST MODEL IS SUPERIOR IN ALL RESPECTS TO AMERITECH'S MODEL AND SHOULD BE APPROVED BY THE COMMISSION.

Ameritech's baseless claim that its nonrecurring cost model, and not the CLECs' nonrecurring cost model ("NRCM") is consistent with the 1996 Act and FCC rules ignores reams of record evidence supporting the opposite conclusion. (Ameritech Init. Br. at 287). The CLECs' witness, Steven Turner, identified literally dozens of fundamental flaws in Ameritech's model that render it useless to the Commission in this

proceeding. Ameritech's witnesses did little to explain the deficiencies or to defend their model. Perhaps the most obvious indicator that the CLECs' NRCM is vastly superior to Ameritech's model is the fact that Ameritech points proudly to two states -- North Carolina and Alabama – where the commission did not use the NRCM. Ameritech fails to mention that the NRCM has been accepted by state commissions all over the country, including in Michigan, Minnesota, and Vermont. (Tr. 3925-3926). To the extent Ameritech's model has even been considered by the commissions in this region, it has only been with substantial revisions and adjustments.

Yet another telltale sign of Ameritech's desperation to save its model is its reliance throughout its brief on AT&T's TOC studies. Despite the fact that this proceeding is expressly limited to an examination of the rates Ameritech Wisconsin should offer for unbundled network elements (UNEs) rates in Wisconsin, Ameritech sees fit to bolster its case on outdated AT&T studies from Oklahoma and California.[2] The AT&T TOC studies are Oklahoma- and California-specific, are at least 4-5 years old, and are based on assumptions, methods, inputs, and estimates completely foreign to the forward-looking cost environment in place today. Undeterred, Ameritech repeatedly bootstraps its arguments on these irrelevant studies. Indeed, if Ameritech's brief were stripped of (1) the rhetoric that brazenly ignores the record evidence favoring the NRCM and (2) the reliance on AT&T's irrelevant TOC studies, there would be little of any substance left to recommend Ameritech's nonrecurring costs.

[2] Specifically, the focus of this case is to explore and correct the absurdly high UNE rates that Ameritech has proposed in this proceeding. Ameritech's proposed unbundled loop rates, for example, are 500% to 700% higher than any unbundled loop rate approved by any of the other four state commissions in the Ameritech region.

Perhaps not surprisingly, Ameritech ignores the voluminous record evidence the CLECs' submitted in support of the NRCM.[3] As such, the CLECs would respectfully encourage the Commission and its Staff to review Steve Turner's direct, rebuttal, and surrebuttal testimony, where he explains the CLECs' NRCM, and details literally dozens of significant problems with Ameritech Wisconsin's model. Indeed, the Commission would be well-served to review the NRCM and supporting documentation, which explain in detail how the NRCM implements all of the requirements of the 1996 Act and FCC rules.

Unlike Ameritech's model, the NRCM correctly applies forward-looking long-run economic principles by assuming a network engineered using forward-looking technologies and efficient processes. Consistent with the Act and FCC rules, the major assumptions employed in the NRCM are: (1) a network engineered using forward-looking technologies and efficient processes; (2) an electronic ordering interface between the CLEC and ILEC that incorporates front-end edits to minimize service order errors and the ability for those errors to be returned electronically; (3) an efficient OSS environment with unpolluted databases to minimize fallout; (4) electronic provisioning where possible; (5) POTS services are non-designed services; and (6) OSS investment and maintenance costs are recovered in recurring rates.

The NRCM develops cost estimates for the different nonrecurring functions by identifying and estimating the associated costs of each activity that will be performed by an ILEC when a CLEC requests a wholesale service, interconnection, and/or an

[3] Instead, Ameritech engages in often strident mocking of CLECs' witness Mr. Turner and his colleagues, who brought vast industry experience to bear on developing the NRCM. Ameritech's attacks are unseemly and unwarranted. It is also ironic, as the credentials of Mr. Turner, his colleagues, and the NRCM are vastly superior to Ameritech's witnesses.

unbundled network element. By identifying and estimating costs associated with each activity, the NRCM develops a "bottoms-up" estimate of nonrecurring costs. (Tr. Vol. 10, p. 3653).

II. AMERITECH'S CRITICISMS OF THE NRCM ARE BASELESS.

The CLECs respond below to Ameritech's criticisms of the NRCM. (Ameritech Init. Br. at pp. 299-311).

Ameritech strains to create an issue related to the nonrecurring cost associated with provisioning POTS / ISDN-BRI UNE Loop. It then suggests that concerns with this one nonrecurring rate element are by extension identical to problems across all of the nonrecurring costs in the NRCM. Significantly, Ameritech did not respond to Mr. Turner's testimony related to using a process approach to determining the nonrecurring costs associated with categories such as UNE Loop-Port combinations often referred to as the UNE-Platform. (More on this below.) In other words, Ameritech is effectively silent in responding to Mr. Turner's concern that Ameritech has not developed the cost for its nonrecurring charges accounting for how the processes will actually work, but rather looking at network elements in complete isolation from one another. This is not how network provisioning is done in Ameritech's network. (Tr. 3748.)

Regarding Ameritech's position related to including disconnect costs in with the costs for establishing the network element or service, Ameritech fails to point out two key issues. First, this is an established ratemaking practice in retail services. The reason being that with retail customers that might be moving to another part of the country when disconnecting their service, it would be difficult to recover the disconnect cost unless it had already been recovered. However, the environment here is wholesale services.

When a particular unbundled element or combination of elements is disconnected, there will continue to be a wholesale business relationship with the CLEC. There is no reasonable fear that the CLEC will not pay for disconnecting a particular customer's line because that same CLEC is providing service using many other unbundled elements and will continue to pay its bills to maintain a business relationship with Ameritech. Second, the costing standards for unbundled elements and interconnection are not the same as those in the ratemaking practice in the telephone industry. (Tr. 3750). The standards of this Commission are to use TELRIC and that requires from an incremental cost standpoint that the CLEC pay unbundled element cost when the incumbent bears the cost. As such, disconnect cost should be treated separately from provisioning cost as is found in the NRCM.

The bottom line on disconnection costs is that Ameritech is asking this Commission to violate the "cost causation" principle and has no good reason for this violation. In short, the Commission should adopt the approach taken in the NRCM of separately identifying these costs (provisioning and disconnecting) and separately charging for these costs. Importantly, Ameritech's witness admitted that in Ameritech's model so-called one time disconnect costs can be assessed twice under certain circumstances. (Tr. 1852-1855). In any event, the NRCM (not Ameritech's model) provides separate connect and disconnect cost results which can accommodate any type of Commission-ordered rate structure. (Tr. 3762-63.)

Ameritech claims that the NRCM has no service order processing costs for UNE loop installation. This is simply not the case. The NRCM clearly notes that the costs for pre-order and order that are associated with OSS interfaces between the Ameritech and

the CLEC are recovered via recurring charges and should not be separately accounted for as a nonrecurring charge. The NRCM reflects the considerable work that has been done over the last four years to integrate the systems of CLECs with Ameritech's systems using electronic gateways so that wasteful manual intervention is eliminated. Moreover, the NRCM also accurately reflects that in an electronic ordering environment there is no need for a CLEC customer contact representative to hand pre-order or order steps because this interface has been replace with electronic processing. In other words, Ameritech's assumption that **CONFIDENTIAL - END CONFIDENTIAL** percent of all orders for UNE loops will require the manual intervention of its Information Industry Service Center ("ISSC") personnel is completely inconsistent with the direction the industry is taking with OSS development. As such, the cost that Ameritech includes for these functions – **CONFIDENTIAL - END CONFIDENTIAL** per order – is unnecessary and does not reflect the efficiencies that the entire industry is incorporating into the OSS interfaces that are in place and being further refined. (Tr. 3749-51.)

The ISSC involvement does not reflect the level of flow-through that Ameritech should achieve. Ameritech is effectively assuming a **CONFIDENTIAL - END CONFIDENTIAL** percent fallout rate immediately at the point of receiving the order from the CLEC. This is entirely inconsistent with the information that Ameritech has been providing to state commissions in its region. Specifically, Ameritech's own performance data indicates that it is experiencing a flow-through rate in excess of 98 percent. There is absolutely no justification for Ameritech to then develop its costs assuming that only **CONFIDENTIAL - END CONFIDENTIAL** percent of the orders for UNE loops actually flow through. This fallout rate is not consistent with

Ameritech's current level of flow-through and is certainly not consistent with the forward-looking direction this industry is taking on electronic provisioning of CLEC service orders. (Tr. 3751).

The NRCM does not include computer processing costs as a nonrecurring cost because the cost of efficient OSSs should be part of the recurring cost of unbundled network elements, and those costs should be recovered in prices for unbundled network elements. OSSs themselves are software packages. Incumbent local exchange carriers typically capitalize the first generic of any software acquired with hardware, but expense all later versions of that software. Thus, later generations of legacy OSSs should be part of the expenses of the incumbent local exchange carrier. The various TELRIC models of recurring costs use those expense accounts to build estimates of recurring costs of unbundled network elements. Thus, these costs are recovered in recurring rates for unbundled network elements. (Tr. 3752).

The OSSs run on various computers. The various TELRIC models of recurring costs use the general-purpose computer accounts to build the estimates of recurring costs of unbundled network elements. The computers on which the OSSs run are kept operational 24 hours per day, so there is no incremental power cost to perform any of these transactional functions. The various TELRIC models use power accounts to build estimates for recurring costs of unbundled network elements. Thus, both the hardware and power costs are recovered in recurring rates for unbundled network elements.

In short, the NRCM properly assumes that the costs of the underlying OSSs (hardware, system software, processor costs, updates, and upkeep) are recovered in the incumbent's recurring wholesale and retail rates. (Tr. 3751-3752.)

The underlying OSSs are responsible for network provisioning and administration including, but not limited to, additions, rearrangements, recent changes, and performance surveillance. Some of the incumbents' existing OSSs may require upgrading and/or modification to allow new entrants equal access to those systems. These investments are called "transitional" investments and represent the costs to transition the incumbent's network from a single-carrier network to a multi-carrier network. These investments can also be called "Competition Onset" investments as they represent investments that the incumbents must make in their networks as a direct result of the Telecommunications Act of 1996. Again, the NRCM has not modeled these investments, as they should be recovered under recurring costs as stated above. (Tr. 3753).

Ameritech also assumes that 100 percent of loops coming into the central office are on copper feeder terminating at a distribution frame requiring a manual cross-connect. This assumption bears no resemblance to a forward-looking network where fiber-fed integrated digital loop carrier is presently available or to the network that is being used in this proceeding to establish UNE rates. (Tr. 3752-3753.) The NRCM assumes that 60 percent of the loops will be served on fiber-fed integrated digital loop carrier. Fiber-fed integrated digital loop carrier permits the electronic provisioning of the unbundled loops to the CLEC and does not require the manual cross-connect that Ameritech uses in 100 percent of its UNE-Loop provisioning. (Tr. 3753).

If this Commission were to determine that a different value from 60 percent should be used, this change would be easy to make in the NRCM. Making this change would only require one input change and a rerunning of the NRCM. Making a modification of this nature to the NRCM would only take a few minutes. However, the

bottom line is that it is totally inappropriate to assume that 100 percent of unbundled loops will provisioned using copper feeder cross-connected within the central office in a forward-looking environment.

Ameritech further asserts that the unmanned central office percentage in the NRCM is too low. This can also be easily changed in the NRCM. The 20 percent figure is based on the experience of the NRCM development team. If this Commission determined that a higher percentage should be used, this could be readily altered as an input within the NRCM. It appears that the Ameritech study assumes that **CONFIDENTIAL - END CONFIDENTIAL** percent of its offices are unmanned, which appears high. However, a Commission approved value for this input could be easily incorporated into the NRCM. (Tr. 3753-3754.)

Ameritech also asserts that its technicians do not perform four tasks per central office visit. Unfortunately, Ameritech has provided little evidence to suggest otherwise. Based on his experience, Mr. Turner testified that when a technician is dispatched to a central office he will often do more than just one task. He will have other incumbent work activities to perform, routine maintenance, or other related work that should bear a portion of the travel cost to the central office. (Tr. 3754). In the absence of any other evidence, the Commission should adopt Mr. Turner's assumption.

Regarding Ameritech's assertion that on a forward-looking basis, Ameritech expects to experience a **CONFIDENTIAL – END CONFIDENTIAL** percent fallout rate (Ameritech Init. Br. at 295-298), Ameritech's current fallout rate for wholesale orders (and retail for that matter) is less than two percent. As such, it is difficult to understand why Ameritech would propose that a **CONFIDENTIAL - END

CONFIDENTIAL** percent value should be used. And even for this fallout rate, Ameritech did not use it consistently throughout its cost study. Specifically, the Ameritech ISSC is using a fallout rate of **CONFIDENTIAL - END CONFIDENTIAL** percent. Moreover, to the extent that the Commission would want to modify the fallout rate on a forward-looking basis, this change can easily be accommodated in the NRCM. For the POTS/ISDN-BRI Install (UNE Loop) nonrecurring charge under consideration, the **CONFIDENTIAL - END CONFIDENTIAL** percent fallout increases the nonrecurring charge from $2.04 to $4.74. (Tr. 3754-3755.)

In addition, Ameritech's assumption that ** CONFIDENTIAL - END CONFIDENTIAL ** percent of loop orders must have field provisioning work is one of the most egregious assumptions in Ameritech's nonrecurring cost study. The central problem is that this assumption does not account for the process under which unbundled loops are actually used. Even if one were to accept that Ameritech does not have 100 percent dedicated inside and outside plant, the reality is that the vast majority of orders are for migrating service from Ameritech to a CLEC. As such, on all of these orders there is no need for fieldwork because the cross-connects and testing have been completed in the field as this level. Mr. Turner estimated that likely 90 percent or more of all UNE-Loop orders are for migrations of existing service. (Tr. 3756). The remaining 10 percent would be new loops, but not all of these loops would require field work given whatever Ameritech's assumptions is for dedicated inside and outside plant. Even if this value were not 100 percent, it should be higher than **CONFIDENTIAL - END CONFIDENTIAL** percent (the difference from Ameritech's assumption of

CONFIDENTIAL - END CONFIDENTIAL percent dispatch required). The bottom line is that even using Ameritech's assumptions, but accounting for the migration of existing lines, Ameritech would need to assume a dedicated plant percentage of around 95 percent. This will have a significant affect on Ameritech's costs given that it has assumed a dispatch percentage of **CONFIDENTIAL - END CONFIDENTIAL** percent.

Ameritech also makes wild accusations that the NRCM was not conducted consistent with TELRIC principles. In every instance, however, Ameritech has relied on inefficient, embedded assumptions that are not even consistent with its parent SBC's own stated strategies and commitments related to OSSs. In short, Ameritech's criticisms of the NRCM are based on Ameritech's reluctance to develop nonrecurring costs that are consistent with TELRIC principles. (Tr. 3756.)

III. AMERITECH'S NONRECURRING COST STUDY IS FLAWED AND CANNOT BE USED HERE WITHOUT SUBSTANTIAL MODIFICATIONS.

Ameritech conveniently ignores the flaws in its non-recurring cost model. Those flaws are significant in number and degree. The CLECs and specifically, Mr. Turner, have discussed those flaws at length both in testimony and in their initial brief. Ameritech looks the other way and refuses to correct the problems. For example, Ameritech continues to ignore the fact that it inappropriately imposes two service order charges – one for a loop and one for a port – anytime the UNE-P is ordered, even though a CLEC places a single order requesting the UNE-P. Ameritech's Mr. Florence acknowledged, however, that if a model fails to capture process improvements likely to occur in the foreseeable future, the result will be to overstate costs. (Tr. Vol. 6, p. 1681.)

And he acknowledged testifying in Illinois as recently as last October that the implementation of CABS billing will eliminate the need for two service orders. (Tr. Vol. 6, pp. 1689-90.) Yet the company's NRC model continues to impose separate service order charges. (Tr. Vol. 6, p. 1682.) Ameritech would have us believe that there are now *new* reasons for continuing the separate charges, even when the reason they have relied on in the past – the use of separate billing systems for the loop and for local switching and shared transport – falls away. (Tr. Vol. 6, pp. 1683-84.) Yet, as Mr. Florence also acknowledged, the non-recurring cost studies presented here, that include the separate order charges, are the same studies that were presented in Illinois. (Tr. Vol. 6, pp. 1685-87.) And Ameritech's new pretext for separate charges is belied by its own cost summary, that expressly ties the separate charges to the (soon to be changed) separate ACIS and CABS systems. (Exhibit C41***.) The conclusion should be the same as Mr. Florence admitted in Illinois: with the implementation of CABS billing, whatever justification there may have been for separate order charges will fall away. Failing to account for that is but a further flaw in Ameritech's non-recurring cost model.

To summarize, the multiple shortcomings in Ameritech's nonrecurring cost studies include a: (1) failure to evaluate nonrecurring costs from a process perspective; (2) failure to utilize a forward-looking network architecture in developing nonrecurring costs; (3) failure to incorporate the concept of flow-through via efficient OSS into its development of nonrecurring costs; and (4) failure to incorporate efficient processes into the development of its nonrecurring costs. Ameritech's model is fundamentally flawed and cannot be relied upon with any confidence in this proceeding. If the Commission

were to approve the use of Ameritech's model, however, substantial adjustments addressing the problems identified by Mr. Turner would have to be made.

IV. COSTS ASSOCIATED WITH PROVIDING AN "ORDINARILY COMBINED" COLLECTION OF UNES.

Finally, Ameritech erroneously asserts that "neither side has offered evidence into the record" regarding "ordinarily combined" collections of UNEs. (Ameritech Init. Br. at 322). Nothing could be further from the truth. With respect to recurring costs, all parties to this proceeding have addressed the costs of the various elements needed to assemble UNE combinations, including the UNE platform. Admittedly, simply adding the recurring prices of component elements together tends to overstate costs because certain economies are derived when elements are offered in combination; however, a simple summation of UNE component prices can provide a conservatively high price level for a UNE combination.

With respect to nonrecurring costs, the CLECs provided extensive analysis and recommendations with respect to installation, migration and disconnect costs for the UNE platform. CLEC witness Mr. Turner presented the cost results ($0.25) for each of these three situations in his Appendix SET-11, lines 3-5. (Exhibit 93, Tr. 3555) His accompanying testimony explained the significance and derivation of these costs. (Tr. 3655, 3657, 3660-3661) While Ameritech may be correct that it presented no evidence on this topic, the record is clear that the CLECs did. The CLECs' evidence has not been rebutted and must be approved.[4]

[4] The FCC's First Report and Order in CC Docket 96-98 states the following regarding the burden of proof:

> 680. We note that incumbent LECs have greater access to the cost information necessary to calculate the incremental cost of the unbundled elements of the network. Given this asymmetric access to cost data, we find that incumbent LECs must prove to the state commission the nature

When faced with an analogous situation, the Michigan Commission adopted migration costs developed by the NRCM, the same model presented by the CLECs here.[5] Those model results provided the analytic cost support for the current $0.35 Michigan UNE platform migration tariff rate that has helped to enhance the competitive climate in that state.[6] This Commission should do the same.

V. CONCLUSION

If competitive local exchange markets are a goal of this Commission, new entrants must have nondiscriminatory access to the incumbent's databases and other resources for entering service orders to eliminate the need for costly, intermediate customer service contacts. New entrants must only incur costs equal to those which the ILEC would incur using a forward-looking network architecture and efficient OSS. If the CLEC faces additional costs and obstacles, the CLEC is burdened with a barrier to entry and the ILEC has no incentive to become efficient. Nonrecurring costs must be based upon forward-looking long-run economic principles or the CLECs will have little chance to break into current monopoly markets. (Tr. Vol. 10, p. 3697)

The CLECs' NRCM incorporates those requirements. In doing so, the NRCM corrects the faulty assumptions that have been found in Ameritech's cost studies. The Commission should adopt the results of the NRCM as provided in Appendix SET-11 to Mr. Turner's testimony.

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and magnitude of any forward-looking cost that it seeks to recover in the prices of interconnection and unbundled elements. Ameritech has not met its obligation.

[5] Opinion and Order, MPSC Case No U-11831, p. 35 (November 16, 1999).

[6] In Texas, Southwestern Bell charges $2.56 for electronic migration orders (zero if the elements are already physically combined). Tr. 1695, 1698.